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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,260	03/15/2004	Ichiro Fujimori	13912US04	2251
23446 7590 06/08/2009 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661				
EXAMINER				
CAO, PHAT X				
ART UNIT		PAPER NUMBER		
2814				
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06/08/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: ICHIRO FUJIMORI

Appeal No. 2009-000078
Application 10/801,260
Technology Center 2800

Mailed: June 5, 2009

Before DALE M. SHAW *Chief Appeals Administrator*
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on August 5, 2008. Upon review of the application, it has been determined that a remand to Examiner, via the Office of the Director of the Technology Center, is necessary to consider the following issues and to take necessary corrective action.

EXAMINER'S CONSIDERATION OF REPLY BRIEF

A Reply Brief was filed on January 14, 2008, in response to the Examiner's Answer mailed November 15, 2007.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed March 28, 2008, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

CONCLUSION

Accordingly, it is

ORDERED that this application be returned to the Examiner:

- 1) to vacate the Communication mailed March 28, 2008;
- 2) to generate and mail either:
 - a) a revised Communication properly acknowledging to the Reply Brief dated January 14, 2008 in accordance with MPEP§ 1208, part II;
 - OR
 - b) issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate, and;
- 3) for such further action as may be appropriate.

Appeal No. 2009-000078
Application No. 10/801,260

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/nhl

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